Response ID ANON-DWPM-B731-N

Submitted to Small Business Commissioner: statutory review 2023
Submitted on 2023-04-27 20:51:17

About you

What is your name?

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What is your organisation?

Organisation:
Finishes and Interiors Sector (FIS)

Are you happy for your response to be published?

Yes

Would you like to be contacted when the consultation response is published?

Yes

How did you hear about this consultation?

Where did you hear of this consultation?:
Email from BEIS

Other (please specify):

The consultation

1 How aware do you think businesses are of the role of the Small Business Commissioner? How aware would you say you are of the SBCs role as set out in this statutory review document?

Question 1:

Speaking on behalf of our community awareness of the SBC and the overarching role are high. We have regular dealings with SBC and have evidence of the SBC and her team providing dynamic support in specific payment issues. There is some confusion that that the SBC is responsible for the PPC and the construction parts thereof, but wider jurisdiction on construction is limited. It would be useful to see this clarified and the role extended to compliment and extend the work of the construction team at The Department of Business and Trade.

2 Have you had any interactions with the SBC?

Yes

3(i) If you answered 'yes' to Question 2, how often have you interacted with the SBC?

regularly (e.g. more than twice a year)

3(ii) Has your interaction with the Small Business Commissioner mainly been as a:

Stakeholder with an interest in SBC's activities

3(iii) How satisfied are you with your dealings with the SBC?

Very satisfied

4 In your view, what impact, if any, has the SBC had on your business relationships (e.g. with business suppliers or business customers), and/or business relationships between business suppliers and business customers in general?

Question 4:

Where we have asked the SBC to step in the results have been positive, furthermore they have been effective in helping companies to understand what their obligations and responsibilities are.

Overall the Prompt Payment Code too is a force for good, however, it would be good to see Government using infuence to see it is a requirement on all jobs commissioned by and associated with public sector.

At the same time, the scope of the code could extended to cover behaviours around the supply chain. To make this meaningful, SBC resource would need to be extended to effectively audit this and greater sanctions to ensure that companies adhere.

5 Do you think that resolving a complaint between business suppliers and business customers has become easier or harder since the establishment of the Small Business Commissioner? Why?

Question 5:

It has become easier when the company in question has reached the point where they do not rely on the client for further work and we have seen disputes resolved when this is the case. The challenge is, however, the fear of backlash and the potential of losing future work if a company brings a dispute.

6 What do you believe has been the impact of the SBC on payment issues?

Question 6:

The SBC has helped to keep payment issues on the agenda, through the Prompt Payment Code has had a positive impact both in terms of encouraging better behaviour and resolving disputes when raised. However, the information available to carry out this duty is, due to failings in the Duty to Report, somewhat limited. This would be strengthened if the Duty Report also required the value as well as the volume of invoices to be reported on.

7 In your view, is the role of the Small Business Commissioner sufficiently clear? How would you explain the role?

Question 7:

Yes. The Small Business Commissioner is there to champion small businesses, representing their needs to Government whilst at the same time providing advice and support, maintaining the Prompt Payment Code and intervening where appropriate on payment disputes, helping to avoid expensive legal intervention.

To repeat, however, the juristiction in construction is blurred and should be clarified.

8 How effective do you consider the SBC has been in exercising the powers of the office:

8a running a complaint scheme?

Effective

8b Using powers to investigate a report from a small business that they are not being paid by a large business within the terms of their contract?

Very effective

8c General advice to small businesses on payment issues

Very effective

8d Drawing attention to the importance of prompt payment and taking steps to improve culture around payment practices?

Very effective

8e Drawing attention to alternative dispute resolution options and approaches?

Effective

9 What else could the SBC do to improve payment culture?

Question 9:

Fair payment is not just about when an invoice is paid, underhand tactics are often adopted to disputes amounts or elements related to payment. In construction this may be done via spurious quality or quantum disputes, quibbling valuations, pay less notices or simply paying less and expecting the supply chain to accept this. It should also encourage the adoption of the Conflict Avoidance Pledge for construction and look for evidence that guidance is being followed (particularly for construction related to the definition of invoice).

10 The SBC receives fewer complaints than expected. What do you consider are the primary reasons why small businesses tend not to raise complaints with the SBC? Please indicate what you think is the most important reason in the comments box below, and also tick all other reasons that you think apply:

Fear of some form of penalty from business customer

Question 10:

This is often not done as companies fear being blacklisted. See comments above about spot checks - reporting could help to trigger an audit rather than a specific invoice investigation where it would be hard not to reveal the the identity of the reporting company should they wish to remain anonymous.

Critical is that the SBC is enforced, potentially fines imposed through more stringent enforcement around the Duty to Report could help to raise the necessary revenue to support this.

11 Would the introduction of broader powers for the Commissioner to investigate issues on their own initiative, or as a result of anonymous information, help address the late payment issues faced by small businesses? What else would encourage you or business in general to raise an issue with the SBC?

Question 11:

Consideration should be given to a wider brief (embraced under the Small Business Commissioner) through the Prompte Payement Code that seeks to uncover information behind the Duty to Report (on which they are currently heavily reliant) such as delaying and obfuscating payment.

Retentions also remain a challenge for construction and the mis-management therof falls outside of the brief of the small business commissioner. The Prompt Payment Code could introduce a retentions element that commands tighter control and more transparent management than is currently seen.

Rather than relying on reporting from the supply chain spot-checks should be considered potentially risk assessed. Additional resources would be required, but this would help the SBC to get on the front foot with dynamic rather than reactive support.

12 Please provide any additional feedback on the scope of the SBC's powers, including the extent to which you consider it enables or restricts the SBC to fulfil the Commissioner's purpose.

Question 12:

Nothing further to add.